



Legislation Text

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INTRODUCTORY*

CITY OF BALTIMORE COUNCIL BILL

Introduced by: The Council President

At the request of: The Administration (Department of Housing and Community Development)

A BILL ENTITLED

AN ORDINANCE concerning **East Baltimore Research Park Phase II - Development District**

FOR the purpose of designating a "development district" to be known as "East Baltimore Research Park Phase II Development District"; providing for and determining various matters in connection with the establishment of the development district; creating a special tax increment fund for that development district; allocating certain property taxes to that fund; making certain findings and determinations; providing for a special effective date; and generally relating to the designation and operation of the development district, the establishment and use of the tax increment fund and the issuance and payment of and other matters pertaining to any special obligation bonds or notes issued in connection with the development district.

BY authority of
Article II - General Powers
Section (62)
Baltimore City Charter
(1996 Edition)

Recitals

The Tax Increment Financing Act, Article II, Section (62) of the Baltimore City Charter (the "Act") authorizes the Mayor and City Council of Baltimore to establish a "development district" (as defined in the Act) and a special tax increment fund into which the revenues and receipts from the real property taxes representing the levy on the "tax increment" (as defined in the Act) for the development district are deposited, for the purpose of providing funds for the development of the development district.

The Act also authorizes the City, subject to certain requirements, to issue bonds (including notes) for the purpose of financing and refinancing the development of an industrial, commercial, or residential area in Baltimore City. The Act provides, however, that no bonds or notes may be issued by the City until an ordinance is enacted that (i) designates an area or areas within the City as a "development district" and (ii) provides that, until the bonds have been fully paid, the property taxes on real property within the development district shall be divided as provided in the Act.

Pursuant to the Act, the Mayor and City Council established a development district known as the East Baltimore Research Park Development District (the "East Baltimore Research Park Phase I Development District") pursuant to Ordinance 04-693 (as hereinafter defined) to facilitate the Comprehensive Redevelopment of the Project (as defined in Ordinance 04-693).

The Mayor and City Council wishes to establish an additional development district within the City, adjacent to the Phase I Development District, and a tax increment fund for that development district for the purpose of providing funds for the acquisition of land and the construction of buildings or structures that will provide affordable housing or otherwise be devoted to a governmental use or purpose, and other infrastructure improvements relating to the development of residential, commercial, and office uses and a school in the development district.

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That for the purposes of this Ordinance, the following terms have the meanings indicated:

- (a) "Area A Subdistrict" means the subdistrict within the development district created by Section 3(b) of this Ordinance.
- (b) "Area B Subdistrict" means the subdistrict within the development district created by Section 3(c) of this Ordinance.
- (c) "Area A Subaccount" means the subaccount within the Tax Increment Fund established by Section 4 of this Ordinance.
- (d) "Area B Subaccount" means the subaccount within the Tax Increment Fund established by Section 4 of this Ordinance.
- (e) "Act" means the Tax Increment Financing Act, as codified in Article II, Section (62) of the Baltimore City Charter.
- (f) "Assessable base" means the total assessable base of all real property in the Development District subject to taxation, as determined by the Supervisor of Assessments.
- (g) (1) "Assessment ratio" means any real property tax assessment ratio, however designated or calculated, that is used or applied under applicable general law in determining the assessable base.
(2) "Assessment ratio" includes the assessment percentage provided under §8-103(c) of the State Tax-Property Article, as amended, replaced, or supplemented from time to time.
- (h) "Bond" means any bond, note, or other similar instrument or instruments issued by the Mayor and City Council of Baltimore under the Act.
- (i) "Development District" means the area in the City designated in Section 3 of this Ordinance as a development district under the Act.
- (j) "Ordinance 04-693" means Ordinance 04-693, passed by the City Council on June 14, 2004, and signed by the Mayor on June 23, 2004.

- (k) "Original assessable base" means the assessable base as of January 1, 2006.
- (l) "Original full cash value" means the dollar amount that is determined by dividing the original assessable base by the assessment ratio used to determine the original assessable base.
- (m) "Original taxable value" means, for any tax year, the dollar amount that is the lesser of:
- (1) the product of the original full cash value times the assessment ratio applicable to that tax year; or
 - (2) the original assessable base.
- (n) "Phase I Development District" or the "East Baltimore Research Park Phase I Development District" means the East Baltimore Research Park Development District established by Ordinance 04-693.
- (o) "Project" means the following improvements and activities that are completed in accordance with all City approvals:
- (1) the relocation of businesses or residents;
 - (2) site removal, including demolition and site preparation;
 - (3) the acquisition of land and other property by purchase, lease, or condemnation;
 - (4) the design, construction, reconstruction, renovation, and development of buildings that provide units of affordable housing and condemning or otherwise acquiring structures, real or personal property, rights, rights-of-way, franchises, easements, and interests in furtherance of this purpose;
 - (5) the design, construction, reconstruction, renovation, and development of building, structure, or improvements that constitute a school, library, park or recreational facility, or buildings devoted to a governmental use or purpose and condemning or otherwise acquiring any real or personal property, rights, rights-of-way, franchises, easements, and interests in furtherance of this purpose; and
 - (6) the acquisition, construction, renovation, and development of other related public improvements and the financing or refinancing of any related costs that are necessary for the completion of the foregoing for its intended public purposes.
- (p) "Tax increment" means for any tax year, the amount by which the assessable base as of January 1 preceding that tax year exceeds the original taxable value, divided by the assessment ratio used to determine the original taxable value.
- (q) "Tax Increment Fund" means the special fund established by Section 4 of this Ordinance.
- (r) "Tax year" means the period from July 1 of a calendar year through June 30 of the next calendar year.

SECTION 2. AND BE IT FURTHER ORDAINED, That the Mayor and City Council of Baltimore finds and determines that the establishment of the East Baltimore Research Park Phase II Development District, the creation of a Tax Increment Fund for the Development District, and the issuance of bonds from time to time, all for the purpose of providing funds for financing and refinancing of the costs of the Project, accomplishes the purposes of

the Act, serves public purposes, including but not limited to the direct and indirect enhancement of the taxable base of the City, the creation of new employment opportunities, the encouragement of additional economic activities, the development or redevelopment of slum, blighted or deteriorated areas, the undertaking of urban renewal projects, the facilitation of planned improvements to the East Baltimore area, the furtherance of economic development conducted pursuant to comprehensive plans, and generally promotes the health, welfare, and safety of the residents of the State of Maryland and of the City of Baltimore.

SECTION 3. AND BE IT FURTHER ORDAINED, That:

- (a) the area consisting of the properties listed in Exhibit 1-A and Exhibit 1-B, attached hereto and made a part of this Ordinance, together with the adjoining roads, highways, alleys, rights-of-way and other similar property, shown on the map attached to this Ordinance as Exhibit 2, attached hereto and made a part of this Ordinance, is designated as a development district to be known as the "East Baltimore Research Park Phase II Development District";
- (b) within the Development District, the area consisting of the properties listed in Exhibit 1-A, together with the adjoining roads, highways, alleys, rights-of-way and other similar property shown and noted as "Area A" on Exhibit 2, is designated as a subdistrict to be known as the "Area A Subdistrict"; and
- (c) within the Development District, the area consisting of the properties listed in Exhibit 1-B, together with the adjoining roads, highways, alleys, rights-of-way and other similar property shown and noted as "Area B" on Exhibit 2, is designated as a subdistrict to be known as the "Area B Subdistrict."

SECTION 4. AND BE IT FURTHER ORDAINED, That a special fund is established for the Development District to be known as the "East Baltimore Research Park Phase II Development District Tax Increment Fund." The Director of Finance and other officers and employees of the City shall take all necessary steps to establish the Tax Increment Fund as a separate fund to be held by or for the account of the City. The Director of Finance and other officers and employees of the City shall also take all necessary steps to establish within the Tax Increment Fund two sub-accounts to be known as the "Area A Subaccount" and the "Area B Subaccount."

SECTION 5. AND BE IT FURTHER ORDAINED, That for each tax year that begins after the effective date of this Ordinance:

- (a) the Director of Finance shall divide the property taxes on real property within the Area A Subdistrict so that:
 - (1) the portion of the taxes that would be produced by the rate at which taxes are levied each year by the City upon the original taxable value shall be allocated to and, when collected, paid into the funds of the City in the same manner as taxes levied and collected by the City on all other property are paid; and
 - (2) the portion of the taxes representing the levy on the tax increment that would normally be paid to the City shall be paid into the Area A Subaccount, to be applied in accordance with the provisions of the Act.
- (b) the Director of Finance shall divide the property taxes on real property within the Area B Subdistrict so that:
 - (1) the portion of the taxes that would be produced by the rate at which taxes are levied each year by the City upon the original taxable value shall be allocated to and, when collected, paid into the funds of the City in the same manner as taxes levied and collected by the City on all other property are paid; and
 - (2) the portion of the taxes representing the levy on the tax increment that would normally be paid to the City shall be paid into the Area B Subaccount, to be applied in accordance with the provisions of the Act.

(c) The City acknowledges that neither the rate at which taxes are levied on real property within the Development District nor the manner of assessment of the value of real property within the Development District may vary from the rate or manner of assessment that otherwise would have applied if the Development District were not designated and the Tax Increment Fund not created.

SECTION 6. AND BE IT FURTHER ORDAINED, That:

(a) If no bonds are outstanding with respect to the Development District, money in the Tax Increment Fund may be:

- (1) used for any other purposes described in the Act;
- (2) accumulated for payment of debt service on bonds to be subsequently issued under the Act;
- (3) used to pay or reimburse the City for debt service that the City is obligated to pay or has paid (whether as a general or limited obligation of the City) on bonds issued by the City or by the State of Maryland or any agency, department or political subdivision of the State, the proceeds of which have been used for any of the purposes specified in the Act; or
- (4) paid to the City to provide funds to be used for any legal purpose.

(b) In each case, the use must be approved by appropriate action of the Board of Finance, which action may generally specify the purpose for which the Tax Increment Fund may be used and the maximum amount that may be applied for that purpose, without specifying the actual amounts to be applied.

SECTION 7. AND BE IT FURTHER ORDAINED, That:

(a) If any bonds are outstanding with respect to the Development District, money in the Tax Increment Fund may be used in any fiscal year as provided in Section 6 of this Ordinance and in the indenture authorizing the issuance of the bonds, but only to the extent that:

- (1) the amount in the Tax Increment Fund exceeds the debt service payable on the bonds in that fiscal year and is not otherwise restricted so as to prohibit its use; and
- (2) the use is not prohibited by the ordinance authorizing the issuance of the bonds.

(b) In each case, the use must be approved by appropriate action of the Board of Finance, which action may generally specify the purpose for which the Tax Increment Fund may be used and the maximum amount that may be applied for that purpose, without specifying the actual amounts to be applied.

SECTION 8. AND BE IT FURTHER ORDAINED, That the Director of Finance may do all acts and things and execute all documents and certificates relating to the Development District and the Tax Increment Fund.

SECTION 9. AND BE IT FURTHER ORDAINED, That any approvals, authorizations, or activities provided in this Ordinance do not constitute and may not be deemed to constitute or imply that the City Council, the Mayor, or any department, office or agency of the City has given or will give, any approval, authorization or consent to any action or activity within or required for the development of the Development District, including any land use approval, requirements for the provision of public utilities or services, or any other administrative, judicial, quasi-

judicial, or legislative approval, authorization, or consent.

SECTION 10. AND BE IT FURTHER ORDAINED, That this Ordinance may be amended by a subsequent ordinance of the Mayor and City Council of Baltimore, which ordinance may enlarge or reduce the Development District. However, no ordinance may be effective to reduce the size of the Development District so long as there are any outstanding bonds secured by the Tax Increment Fund, unless the ordinance authorizing the issuance of the bonds permits the City to reduce the area constituting the Development District, the holders of the bonds or an authorized representative on their behalf consents to the reduction or the indenture authorizing the issuance of the bonds permits the reduction.

SECTION 11. AND BE IT FURTHER ORDAINED, That the provisions of this Ordinance are severable. If any provision, sentence, clause, section or other part of this Ordinance is held or determined to be illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, that illegality, invalidity, unconstitutionality, or inapplicability does not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance or their application to other persons or circumstances. It is the intent of the Mayor and City Council that this Ordinance would have been passed even if the illegal, invalid, unconstitutional, or inapplicable provision, sentence, clause, section, or other part had not been included in this Ordinance, and as if the person or circumstances to which this Ordinance or part are inapplicable had been specifically exempted.

SECTION 12. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the date it is enacted.

EXHIBIT 1-A

Properties within the Area A Subdistrict of the Development District

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devdist/EastBaltimore/nbr

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- 7 -
devdist/EastBaltimore/nbr